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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,845	04/11/2001	Vladimir Matena	SUNMP003	2223

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EXAMINER

PHAM, CHRYSTINE

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/833,845

Applicant(s)

MATENA ET AL.

Examiner

Chrystine Pham

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Amendment filed on September 07th 2004. Acknowledgement is made of cancelled claims 2, 3, 9, and 14-21. Claims 1, 4-8, and 10-13 are presented for examination.

Response to Amendment

2. In view of the Applicants' amendments to the drawings to include correct reference sign(s) mentioned in the specification, objection to the drawings is hereby withdrawn.
3. In view of the Applicants' amendments to the specification to correct various typographical errors and informalities identified in Office Action dated June 4th 2004, objection to the specification is hereby withdrawn.

Response to Arguments

4. Applicants' arguments filed on September 07th 2004 have been fully considered but they are not persuasive.

Essentially, the Applicants have argued that the teaching of Ma et al. fails to disclose "performing an online upgrade to JAVA application without any detectable impact on a remote client ..." (page 16 lines 2-3 of 2nd paragraph). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., performing online upgrades without any detectable impact on a remote client) are not recited in the rejected claim(s) or in the amended claims. Assuming, *arguendo*, that the features are recited in the claims, the teaching of Ma et al. clearly anticipates said features (e.g., see *updating of objects is transparent* Abstract). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicants further contend that Ma et al. fails to teach performing "online upgrades in a middle-tier" (page 16 lines 4-8 of 2nd paragraph). However, the examiner respectfully

disagrees. Ma et al. clearly disclose performing an online upgrade to a JAVA application (e.g., see *API function calls 128, meta server, Java code, API calls 138* col.13:10-40) in a middle-tier (e.g., see *meta server 70* FIG.3 & associated text; col.6:30-38; col.6:65-67) between a client browser (e.g., *request to create new obj class* FIG.3 & associated text; see *client 92, runtime update tool/app 76, client app 74* FIGS.5,6 & associated text; see *thin client* col.12:52-61; see FIG.10 & associated text) and databases (e.g., see *meta obj database repository 62, application database 64* FIGS.3,5 & associated text). It is also noted that the feature recited in the amended claims (i.e., performing online upgrades in a Java environment or "middle-tier") is well known in prior art as admitted by the Applicants (see original Specification, section Description of Related Art, page 2).

In view of the foregoing discussion, the examiner considers claim rejection under 35 U.S.C 102(b) proper and maintained.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4-8, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ma et al. (US 5,920,725) of record, hereinafter *Ma et al.*

As per claim 1, *Ma et al.* teach a method for performing an online upgrade to a JAVA application (e.g., see Abstract; see *API function calls 128, meta server, Java code, API calls 138* col.13:10-40), the method comprising:

- Executing an application in a middle-tier (e.g., see *meta server* 70 FIG.3 & associated text; col.6:30-38; col.6:65-67; see *primary server, meta server* col.15:54-65) between a client browser (e.g., *request to create new obj class* FIG.3 & associated text; see *client* 92, *runtime update tool/app* 76, *client app* 74 FIGS.5,6 & associated text; see *thin client* col.12:52-61; see FIG.10 & associated text) and databases (e.g., see *meta obj database repository* 62, *application database* 64 FIGS.3,5 & associated text) having an original service module and an original control module (e.g., FIG.5, FIG.6), wherein the original control module includes application-specific policies for the application (e.g., see FIG.5 rules 81, col.8 line 37-39).
- Generating an upgraded control module (e.g., col.8 line 55, FIG.3 classes 68', 68 & associated text; FIG.8 & associated text, col.8 line 20-34) defining upgraded application-specific policies relative to the original control module, the upgraded control module being defined by upgraded class files loaded from a system repository (e.g., see FIG.3 repository 62 and associated text, col.4 line 42-48) that is part of the databases (e.g., see *meta obj database repository* 62, *application database* 64, *server* 90 FIG.5 & associated text).
- Creating an upgraded service module using the upgraded control module, the upgraded service module is generated using upgraded class files for the upgraded service module loaded from the system repository (e.g., see FIG.3 repository 62 and associated text, col.4 line 42-54; FIG.8 & associated text, col.8 line 20-34), the application providing online execution services when upgrading the original control module and original service module (e.g., see *distributed client-server application is modified while running* Abstract; col.4 line 59-63).

As per claim 4, *Ma et al.* teach a method as applied to claim 1, further comprising the operation of disabling requests to the original service module (e.g., see FIG.4 step 59 & 60, col.4 line 59-62, col.5 line 17-21, col.7 line 50-51, col.10 line 49-50).

As per claim 5, *Ma et al.* teach a method as applied to claim 4, further comprising the operation of enabling requests to the upgraded service module (e.g., col.7 line 41-43, col.10 line 55-56).

As per claim 6, *Ma et al.* teach a method as applied to claim 1, further comprising the operation of upgrading a child application using the upgraded control module (e.g., col.7 line 19-39 and line 46-48).

As per claim 7, *Ma et al.* teach a method as applied to claim 6, further comprising the operation of passing the application-specific policies to a control module of a child application (e.g., col.9 line 20-27, col.11 line 25-40).

As per claim 8, *Ma et al.* disclose a JAVA platform capable of performing online software upgrades, the JAVA platform comprising:

- An application in a middle-tier (e.g., see *meta server 70* FIG.3 & associated text; col.6:30-38; col.6:65-67; see *primary server, meta server* col.15:54-65) between a client browser (e.g., *request to create new obj class* FIG.3 & associated text; see *client 92, runtime update tool/app 76, client app 74* FIGS.5,6 & associated text; see *thin client* col.12:52-61; see FIG.10 & associated text) and databases (e.g., see *meta obj database repository 62, application database 64* FIGS.3,5 & associated text) having an original service module and an original control module (e.g., FIG.5, FIG.6), wherein the original control module includes application-specific policies for the application (e.g., col.8 line 37-39).

- A repository that is part of the databases (e.g., see *meta obj database repository 62, application database 64, server 90* FIG.5 & associated text) having upgraded class files for the original control module and upgraded class files for the original service module (e.g., see FIG.3 repository 62 and associated text, col.4 line 42-48).
- Wherein the original control module is upgraded by generating an upgraded control module defining upgraded application-specific policies relative to the original control module, the upgraded control module being defined by upgraded class files loaded from a system repository (e.g., see FIG.3 repository 62 and associated text, col.4 line 42-48) that is part of the databases (e.g., see *meta obj database repository 62, application database 64, server 90* FIG.5 & associated text), and wherein the original service module is upgraded by creating an upgraded service module using the upgraded control module (e.g., see FIG.8 & associated text; see FIG.3 repository 62 and associated text, col.4 line 42-48), the upgraded service module is generated using upgraded class files for the upgraded service module loaded from the system repository (e.g., see FIG.8 & associated text; see FIG.3 repository 62 and associated text, col.4 line 45-48, col.6 line 12-15), the application providing online execution services when upgrading the original control module and original service module (e.g., see *distributed client-server application is modified while running* Abstract; col.4 line 59-63).

As per claim 10, *Ma et al.* disclose a JAVA platform as applied to claim 9, wherein requests to the original service modules are disabled during upgrade of the original service module (e.g., see Abstract and also col.11 line 49-55).

As per claim 11, *Ma et al.* disclose a JAVA platform as applied to claim 10, wherein requests to the upgraded service module are enabled during upgrade of the original service module (e.g., see Abstract and also col.4 line 59-63).

As per claim 12, *Ma et al.* disclose a JAVA platform as applied to claim 8, wherein the upgraded control module is capable of initiating the upgrade of a child application (e.g., col.6 line 19-23, col.9 line 20-22).

As per claim 13, *Ma et al.* disclose a JAVA platform as applied to claim 12, wherein the application-specific policies are passed to a control module of the child application during the upgrade of a child application (e.g., col.9 line 24-33, col.11 line 25-40).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chrystine Pham whose telephone number is 571-212-3702. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 13, 2005

A handwritten signature in black ink, appearing to read 'Tuan Dam', with a long horizontal stroke extending to the right.

TUAN DAM
SUPERVISORY PATENT EXAMINER